

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-171 (cancelled).

172. (currently amended) An apparatus for use in performing human interbody spinal surgery comprising:

a guard having a mid-longitudinal axis, and a first passage and a second passage~~two passages~~ for providing guided access to a disc space and a vertebral body adjacent the disc space, each of said first and second passages having a proximal end, an opposite distal end,~~and~~ a length from said proximal end to said distal end, and being adapted to receive at least a portion of a spinal implant therethrough, said first and second passages being spaced apart from one another along a majority of their respective lengths, said first and second passages being located on first and second sides, respectively, of a plane bisecting said guard along the mid-longitudinal axis thereof, said first and second passages having first and second cross sections, respectively, in a plane perpendicular to the mid-longitudinal axis, said first and second cross sections of said first and second passages having identical dimensions;

a distracting element configured to distract two adjacent vertebral bodies, said distracting element having a blunt leading end, an opposite trailing end, upper and lower load-bearing surfaces between said leading and trailing ends, and a length from said leading end to said trailing end, said distracting element being fixed to a shaft having a portion configured to contact the posterior surfaces of the adjacent vertebral bodies to limit the depth of insertion of said distracting element into the disc space;

at least one orientation pin for holding said guard to the spine, said orientation pin having a distal end portion configured to extend parallel to and

along a majority of the length of said distracting element when said distracting element and said orientation pin are inserted into the spine; and

a bone removal device for forming through each of said passages in turn an implantation space.

- 173. (previously presented) The apparatus of claim 172, wherein each of said passages forms a hollow tubular sleeve.
- 174. (previously presented) The apparatus of claim 172, wherein each of said passages has a wall, said walls of said passages being spaced apart the majority of the length of the respective passages.
- 175. (previously presented) The apparatus of claim 172, wherein each of said passages has a circular cross section.
- 176. (previously presented) The apparatus of claim 172, wherein said guard has an increased outer dimension portion at its proximal end.

Claim 177 (cancelled).

- 178. (previously presented) The apparatus of claim 172, wherein said guard has a footplate.
- 179. (previously presented) The apparatus of claim 172, further comprising means for cooperatively engaging to the proximal end of said guard an impaction end member for receiving an impaction force for driving said guard into the spine.
- 180. (previously presented) The apparatus of claim 172, further comprising a cap adapted to engage said proximal end of said guard.
- 181. (previously presented) The apparatus of claim 172, wherein, said passages are bridged in part proximate one of said ends of said passages.

Claim 182 (cancelled).

- 183. (previously presented) The apparatus of claim 172, wherein at least one of said orientation pins has a tapered leading end to facilitate placement of at least one of said spine engaging portions into the spine.
- 184. (previously presented) The apparatus of claim 172, wherein at least one of said orientation pins has upper and lower surfaces that are parallel to each other.

- 185. (withdrawn) The apparatus of claim 172, further comprising a removable inner guard.
- 186. (withdrawn) The apparatus of claim 185, wherein said removable inner guard is a hollow tubular sleeve.
- 187. (withdrawn) The apparatus of claim 185, wherein said removable inner guard is adapted to be inserted into said guard.
- 188. (withdrawn) The apparatus of claim 187, wherein said inner guard has limiting means for limiting the travel of said inner guard within said guard when said inner guard is inserted into said guard.
- 189. (withdrawn) The apparatus of claim 185, wherein said inner guard has a collar at one end larger than said passage of said guard.
- 190. (previously presented) The apparatus of claim 172, wherein said bone removal device is a milling instrument.
- 191. (previously presented) The apparatus of claim 172, wherein each of said passages has a mid-longitudinal axis, the mid-longitudinal axes of said passages being in a convergent relationship to each other.
- 192. (previously presented) The apparatus of claim 172, wherein each of said passages has a mid-longitudinal axis, the mid-longitudinal axes of said passages being in a divergent relationship to each other.

Claims 193-196 (cancelled).

- 197. (withdrawn) The apparatus of claim 172, further comprising an implant driver sized in part for passage through one of said passages of said guard for passing an implant through said guard and into an implantation space.
- 198. (withdrawn) The apparatus of claim 197, wherein said implant driver comprises an elongated shaft having means for engaging an implant at one end and means for manipulating said implant driver at the other end of said elongated shaft.
- 199. (withdrawn) The apparatus of claim 198, further comprising means for limiting the depth of insertion of said implant driver into said guard.

200. (withdrawn) The apparatus of claim 199, wherein said limiting means includes a portion of said implant driver cooperating with said guard to limit the depth of insertion of said implant driver into said guard.

Claim 201 (cancelled).

202. (previously presented) The apparatus of claim 172, wherein said upper and lower load bearing surfaces of said distracting element are in a parallel relationship to each other.
203. (withdrawn) The apparatus of claim 172, further comprising a tap for insertion through said guard for tapping the two adjacent vertebral bodies.
204. (withdrawn) The apparatus of claim 172, wherein said apparatus is in combination with a spinal implant.
205. (withdrawn) The apparatus of claim 204, wherein said implant is in combination with a fusion promoting material.
206. (withdrawn) The apparatus of claim 205, wherein said fusion promoting material is harvested bone.

Claims 207-350 (cancelled).

Claims 351-359 (cancelled).